

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

AIDEN SAFARI DAVIS, aka Parviz Safari,
an individual,

Plaintiff,

vs.

GUILLERMO ESPINOZA, dba ESPINOZA
TRUCKING, a foreign sole proprietorship;
and ESPINOZA TRUCKING, an
unincorporated association;

Defendants.

No. 18CV28303

SUMMONS TO DEFENDANT

To: Guillermo Espinoza dba Espinoza Trucking, 18 S 1st Ave, Othello, Washington 99344-6990

You are hereby required to appear and defend the complaint filed against you in the above-entitled action within thirty (30) days from the date of service of this summons upon you, and in case of your failure to do so, for want thereof, plaintiff(s) will apply to the Court for the relief demanded in the complaint.

NOTICE TO THE DEFENDANT: READ THESE PAPERS CAREFULLY!

You must "appear" in this case or the other side will win automatically. To "appear" you must file with the court a legal paper called a "motion" or "answer." The "motion" or "answer" must be given to the court clerk or administrator within 30 days along with the required filing fee. It must be in proper form and have proof of service on the plaintiff's attorney or, if the plaintiff does not have an attorney, proof of service upon the plaintiff. If you have any questions, you should see an attorney immediately. If you need help in finding an attorney, you may contact the Oregon State Bar's Lawyer Referral Service online at www.oregonstatebar.org or by calling (503)684-3763 in the Portland metropolitan area or toll-free elsewhere in Oregon at 1-800-452-7636.

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Attorneys for Plaintiff

STATE OF OREGON, County of Multnomah) ss.

I the undersigned attorney of record for the plaintiff, certify that the foregoing is an exact and complete copy of the original summons and complaint in the above entitled action.

ATTORNEY FOR PLAINTIFF

TO THE OFFICER OR OTHER PERSON SERVING THIS SUMMONS: You are hereby directed to serve a true copy of this summons, together with a true copy of the complaint mentioned therein, upon the individual(s) or other legal entity(ies) to whom or which this summons is directed, and to make your proof of service on the reverse hereof or upon a separate similar document which you shall attach hereto.

ATTORNEY FOR PLAINTIFF

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4 IN THE CIRCUIT COURT OF THE STATE OF OREGON
5 FOR THE COUNTY OF MULTNOMAH
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7 AIDEN SAFARI DAVIS, aka Parviz Safari,)
8 an individual,) Case No.
9 Plaintiff,)) COMPLAINT AND DEMAND FOR JURY
10 vs.) TRIAL
11)) (Civil – Personal Injury Negligence;
12 GUILLERMO ESPINOZA, dba ESPINOZA TRUCKING, a foreign sole proprietorship;) Negligence Per Se)
13 and ESPINOZA TRUCKING, an unincorporated association;)) NOT SUBJECT TO MANDATORY
14) ARBITRATION
15)) PRAYER AMOUNT: \$987,341
16) ORS 21.160(c)
17 Defendants.

18 (First Claim for Relief: Negligence)

19 Plaintiff alleges:

20 1.

21 Plaintiff Aiden Safari Davis, also known as Mr. Parviz Safari, herein “Plaintiff Davis,” is
22 a natural person and resident of Henderson, Nevada.

23 2.

24 Defendant Guillermo Espinoza, dba Espinoza Trucking (hereinafter “Defendant
25 Espinoza”) is a natural person operating a trucking business registered with the state of
Washington as a sole proprietorship, residing in Othello, Washington.

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3.

Defendant Espinoza Trucking is an unincorporated association operating a trucking business and residing in the state of Washington.

4.

As no Defendant resides in the state of Oregon, venue is proper in Multnomah County pursuant to ORS 14.050(1).

5.

8 At all relevant times, Defendant Espinoza Trucking and/or Defendant Espinoza employed
9 a driver by the name Felipe D'Jesus Ortega Garcia, who is a natural person and resident of
10 Washington State.

6.

On January 12, 2017, Plaintiff Davis was driving a commercial tractor-trailer eastbound on I-84 in Wasco County, Oregon, near milepost 89. At the same time, Mr. Garcia was driving a commercial tractor-trailer for Defendants Espinoza Trucking and/or Espinoza that was traveling eastbound on I-84, approaching from behind Plaintiff Davis.

7.

At all relevant times, the area of I-84 being traveled was covered in snow and ice.

8.

19 Mr. Garcia was traveling faster than Plaintiff Davis. As he approached Plaintiff Davis'
20 tractor-trailer, Mr. Garcia drove in such a negligent manner as to strike Plaintiff Davis' vehicle,
21 causing property damage and personal injury.

9.

At the time of the subject crash, Mr. Garcia had been driving beyond the 14-hour duty

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1 period, and failed to keep a current record of duty status and record miles driver, as required
2 under Federal Motor Carrier Safety Administration regulations.

3 10.

4 At the time of the subject crash, Defendants Espinoza Trucking and/or Espinoza owned
5 and provided the vehicle that Mr. Garcia was driving, for the benefit of its business.

6 11.

7 At all relevant times, Mr. Garcia was employed by Defendants Espinoza Trucking and/or
8 Espinoza, and at all times mentioned was working within the course and scope of his
9 employment.

10 12.

11 Defendants Espinoza Trucking and/or Espinoza is vicariously liable for the negligence of
12 its agents and employees, including its employee Mr. Garcia.

13 13.

14 At all relevant times, Mr. Garcia did not possess a valid commercial driver's license.

15 14.

16 The collision in question and Plaintiff Davis' resulting injuries were caused or
17 contributed to by the negligence and/or negligence per se of Defendant Espinoza Trucking
18 and/or Defendant Espinoza directly and through the negligent acts of its employee driver, in one
19 or more of the following particulars:

- 20 (a) In failing to yield to a vehicle traveling in front;
- 21 (b) In failing to drive at a reasonable speed given the conditions of the roadway;
- 22 (c) In failing safely and legally pass and overtake plaintiff's vehicle;
- 23 (d) In failing to maintain a proper lookout for other vehicles;

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- (e) In failing to stop, swerve, or otherwise maneuver his vehicle so as to avoid colliding with the Plaintiff's vehicle;
- (f) In failing to maintain his vehicle under proper control;
- (g) In otherwise failing to prevent the subject crash;
- (h) In failing to supervise defendant's employee drivers, including Mr. Garcia;
- (i) In failing to train defendant's employee drivers, including Mr. Garcia;
- (j) In failing to have and/or enforce policies and procedures that would act to prevent the subject crash;
- (k) In failing to ensure its employees, including Mr. Garcia, are properly licensed to operate commercial vehicles.

15.

As a result of the collision on January 12, 2017, Plaintiff Davis suffered injury to his neck, left shoulder, left arm, and lower back. The injury to his neck resulted in surgery and a likely permanent weakness, numbness and pain. These injuries have caused non-economic damage in an amount to be determined by a jury but not expected to exceed \$375,000.

16.

Because of this collision, Plaintiff incurred medical bills in an amount to be determined by a jury but not expected to exceed the amount of \$243,841.36.

17.

Because of this collision, Plaintiff is expected to incur future medical bills in an amount to be determined by a jury but not expected to exceed the amount of \$88,500.

18.

Because of this collision, Plaintiff has lost income in an amount to be determined by a

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jury but not expected to exceed the amount of \$280,000.

(Second Claim for Relief: Negligence Per Se)

19.

Plaintiff realleges paragraphs 1 through 18 above.

20.

At all times mentioned, ORS 811.410 – Unsafe Passing On Left, and ORS 811.305 – Driving on Left on Curve or Grade or At Intersection or Rail Crossing were in effect and intended to protect drivers within the state of Oregon, including Plaintiff Davis.

21.

At all times mentioned, Defendant violated ORS 811.410 and ORS 811.305 as alleged above and were negligent *per se*.

22.

As a result of the Defendants' individual violations of ORS 811.410, and ORS 811.305, Plaintiff Davis sustained damages as outlined in paragraphs 13 through 16.

23.

Plaintiff places the defendant on notice of his intention to amend this Complaint to seek punitive damages.

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DUBOIS LAW GROUP LLC

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EXHIBIT 1

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1 WHEREFORE, Plaintiff prays for judgment against Defendant:

- 2 a) For his economic damages in an amount to be determined by a jury but not
3 expected to exceed \$612,341.36;
- 4 b) For his non-economic damages, in an amount to be determined by a jury, but in no
5 case greater than \$375,000;
- 6 c) His costs and disbursements incurred herein; and
- 7 d) For any other relief the Court finds reasonable.

8 Dated this 21 day of December, 2018.

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10 DUBOIS LAW GROUP LLC

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12 Brian R. Stimson, OSB #151524
13 Email: brian@pdxinjurylaw.com
14 Sean P. DuBois, OSB #061753
15 Attorneys for Plaintiff

16 Trial Attorney:
17 Sean P. DuBois, OSB #061753

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